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**UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY**

<p>JOHNSON & JOHNSON HEALTH CARE SYSTEMS INC.,</p> <p>Plaintiff,</p> <p>v.</p> <p>SAVE ON SP, LLC,</p> <p>Defendant.</p>	<p>Civil Action No. 22-2632 (JKS)(CLW)</p> <p><i>Document Electronically Filed</i></p> <p>DECLARATION OF E. EVANS WOHLFORTH, JR., ESQ., IN SUPPORT OF MOTION TO SEAL</p>
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I, E. Evans Wohlforth, Jr., submit this Declaration in support of Defendant Save On SP, LLC's ("SaveOn") Motion to Permanently Seal portions of:

- (a) Johnson and Johnson Health Care Systems, Inc.’s (“J&J”) April 17, 2024 Motion to Compel Production of Communications with Third Parties and Exhibits 1-28 [collectively, ECF No. 253]; SaveOn’s April 29, 2024 Opposition and Exhibits 2-19 [ECF No. 326]; and J&J’s May 6, 2024 Reply [ECF No. 278];
- (b) SaveOn’s May 3, 2024 Opposition to J&J’s April 29, 2024 Motion to Compel Relating to SaveOn’s Adapt Program and Exhibits 4-10 [ECF No. 327];
- (c) J&J’s May 3, 2024 Motion to Compel Production of Non-Medical Switching Documents and Exhibits 1-2, 4-9, 11-14, 16, 20 [collectively, ECF No. 275]; SaveOn’s May 14, 2024 Opposition and Exhibits 1-2 [ECF No. 328]; and J&J’s May 21, 2024 Reply [ECF No. 301];
- (d) J&J’s May 10, 2024 Motion to Compel Regarding SaveOn Custodians and Exhibits 1-5, 6, 8-17, 19, 21 [collectively, ECF No. 284]; SaveOn’s May 21, 2024 Opposition and Exhibits 1-2, 6, 9-10 [ECF No. 329]; and J&J’s May 29, 2024 Reply [ECF No. 304];

1. I am an attorney duly authorized to practice law in the State of New Jersey and a member in good standing of the bar of this Court. I am a member of the law firm of Robinson & Cole, LLP, co-counsel for SaveOn.

2. I submit this Certification in accordance with Local Civil Rule 5.3 based upon my personal knowledge in support of the Motion to Seal. The information that SaveOn seeks to seal consists of SaveOn’s confidential, internal information and communications about its business operations, strategies, and internal programs, which SaveOn asserts is proprietary business information, and patients’ personally identifying information, which SaveOn asserts is confidential patient health information.

3. In accordance with Local Civ. R. 5.3(c)(3), attached hereto as Appendices A-D are tables documenting all materials to be sealed, the nature of the materials to be sealed, the legitimate private or public interest which warrants the relief sought, the clearly defined and serious injury that would result if the relief sought is not granted; and why a less restrictive alternative to the relief sought is not available. The Appendices are as follows:

Appendix A	J&J's April 17, 2024 Motion to Compel Production of Communications with Third Parties and Exhibits 1-28 [collectively, ECF No. 253]; SaveOn's April 29, 2024 Opposition and Exhibits 2-19 [ECF No. 326]; and J&J's May 6, 2024 Reply [ECF No. 278]
Appendix B	SaveOn's May 3, 2024 Opposition to J&J's April 29, 2024 Motion to Compel Relating to SaveOn's Adapt Program and Exhibits 4-10 [ECF No. 327]
Appendix C	J&J's May 3, 2024 Motion to Compel Production of Non-Medical Switching Documents and Exhibits 1-2, 4-9, 11-14, 16, 20 [collectively, ECF No. 275]; SaveOn's May 14, 2024 Opposition and Exhibits 1-2 [ECF No. 328]; and J&J's May 21, 2024 Reply [ECF No. 301]
Appendix D	J&J's May 10, 2024 Motion to Compel Regarding SaveOn Custodians and Exhibits 1-5, 6, 8-17, 19, 21 [collectively, ECF No. 284]; SaveOn's May 21, 2024 Opposition and Exhibits 1-2, 6, 9-10 [ECF No. 329]; and J&J's May 29, 2024 Reply [ECF No. 304]

In summary, the information that SaveOn seeks to protect from public disclosure is SaveOn's proprietary business information and confidential patient health information.

4. In accordance with Local Rule 5.3(c)(3)(f), this office contacted Plaintiff's counsel via e-mail to inquire as to Plaintiff's position on whether the materials that are the subject of this Motion should remain sealed. Plaintiff's counsel does not object to the relief sought in this instant motion.

5. Redacted versions of the documents containing SaveOn's confidential information and confidential patient health information are being filed with this Motion pursuant to Local Rule 5.3(c)(4), to ensure that the sealing is by the least restrictive means possible.

6. SaveOn asserts that it has a legitimate interest in maintaining the confidentiality of the redacted and sealed information contained in these filings and in avoiding the public disclosure of this information because it includes SaveOn's proprietary business information, the disclosure of which would grant SaveOn's business competitors an unfair competitive advantage. *See e.g., Goldenberg v. Indel, Inc.*, 2012 WL 15909, at *3 (D.N.J. Jan. 3, 2012) (granting motion to seal "commercially sensitive and proprietary non-public business information"); *Bracco Diagnostics, Inc. v. Amersham Health Inc.*, 2007 WL 2085350, at *9-10 (D.N.J. July 18, 2007) (granting motion to seal where the public availability of documents containing confidential business information would have put a party at a competitive disadvantage).

7. SaveOn further asserts that it has a legitimate interest in maintaining the confidentiality of the redacted and sealed information contained in these filings and in avoiding the public disclosure of this information because it includes confidential patient health information, the disclosure of which would be harmful to patients. *See Rosario v. Doe*, No. CIV. 08-5185 RMB, 2013 WL 3283903, at *2-3 (D.N.J. June 25, 2013) (Bumb, J.) (sealing records containing private medical information).

8. SaveOn has an interest in maintaining the confidentiality of the redacted information contained in the J&J's April 17, 2024 Motion to Compel Production of Communications with Third Parties and Exhibits 1-28 [collectively, ECF No. 253]; SaveOn's April 29, 2024 Opposition and Exhibits 2-19 [ECF No. 326]; and J&J's May 6, 2024 Reply [ECF No. 278] as the documents contain proprietary business information including communications regarding the business relationship between SaveOn and a health plan client, SaveOn's drug lists, and SaveOn's marketing strategies.

9. SaveOn has an interest in maintaining the confidentiality of the redacted information contained in SaveOn's May 3, 2024 Opposition to J&J's April 29, 2024 Motion to Compel Relating to SaveOn's Adapt Program and Exhibits 4-10 [ECF No. 327] as the documents contain confidential proprietary information about one of SaveOn's offerings, Adapt, and SaveOn's business plan for Adapt.

10. SaveOn has an interest in maintaining the confidentiality of the redacted information contained in J&J's May 3, 2024 Motion to Compel Production of Non-Medical Switching Documents and Exhibits 1-2, 4-9, 11-14, 16, 20 [collectively, ECF No. 275]; SaveOn's May 14, 2024 Opposition and Exhibits 1-2 [ECF No. 328]; and J&J's May 21, 2024 Reply [ECF No. 301] as the documents contain confidential proprietary information including SaveOn's strategy for communicating with providers, SaveOn's internal communications about its strategy for responding to drug manufacturers, SaveOn's marketing strategies, and SaveOn's internal communications about the geographical scope of its business.

11. Lastly, SaveOn has an interest in maintaining the confidentiality of the redacted information contained in J&J's May 10, 2024 Motion to Compel Regarding SaveOn Custodians and Exhibits 1-5, 6, 8-17, 19, 21 [collectively, ECF No. 284]; SaveOn's May 21, 2024 Opposition and Exhibits 1-2, 6, 9-10 [ECF No. 329]; and J&J's May 29, 2024 Reply [ECF No. 304] as the documents contain confidential proprietary information including internal practices and training materials for SaveOn employees, internal communications between SaveOn employees regarding business practices, a patient's medication, and copay assistance programs. SaveOn also has an interest in maintaining the confidentiality of the redacted information contained in J&J's May 10, 2024 Motion to Compel Regarding SaveOn Custodians and Exhibits 1-5, 6, 8-17, 19, 21

[collectively, ECF No. 284] because it contains confidential patient health information, including personal identifying information.

12. Accordingly, SaveOn respectfully requests that the Court seal the unredacted versions of: (1) J&J's April 17, 2024 Motion to Compel Production of Communications with Third Parties and Exhibits 1-28 [collectively, ECF No. 253]; SaveOn's April 29, 2024 Opposition and Exhibits 2-19 [ECF No. 326]; and J&J's May 6, 2024 Reply [ECF No. 278]; (2) SaveOn's May 3, 2024 Opposition to J&J's April 29, 2024 Motion to Compel Relating to SaveOn's Adapt Program and Exhibits 4-10 [ECF No. 327]; (3) J&J's May 3, 2024 Motion to Compel Production of Non-Medical Switching Documents and Exhibits 1-2, 4-9, 11-14, 16, 20 [collectively, ECF No. 275]; SaveOn's May 14, 2024 Opposition and Exhibits 1-2 [ECF No. 328]; and J&J's May 21, 2024 Reply [ECF No. 301]; and (4) J&J's May 10, 2024 Motion to Compel Regarding SaveOn Custodians and Exhibits 1-5, 6, 8-17, 19, 21 [collectively, ECF No. 284]; SaveOn's May 21, 2024 Opposition and Exhibits 1-2, 6, 9-10 [ECF No. 329]; and J&J's May 29, 2024 Reply [ECF No. 304].

13. SaveOn submits that there is no less restrictive alternative available.

14. SaveOn respectfully submits that it has satisfied the criteria for sealing a judicial record set forth in Local Civil Rule 5.3. Accordingly, SaveOn requests that the Court grant its motion to seal materials.

15. Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Dated: August 27, 2024

By: s/ E. Evans Wohlforth, Jr.

E. Evans Wohlforth, Jr.

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